

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCE

---

Ex parte DONALD F. GORDON, BRIAN FEINBERG, EUGENE GERSHTEIN,  
SADIK BAYRAKERI, JOHN P. COMITO and EDWARD A. LUDVIG

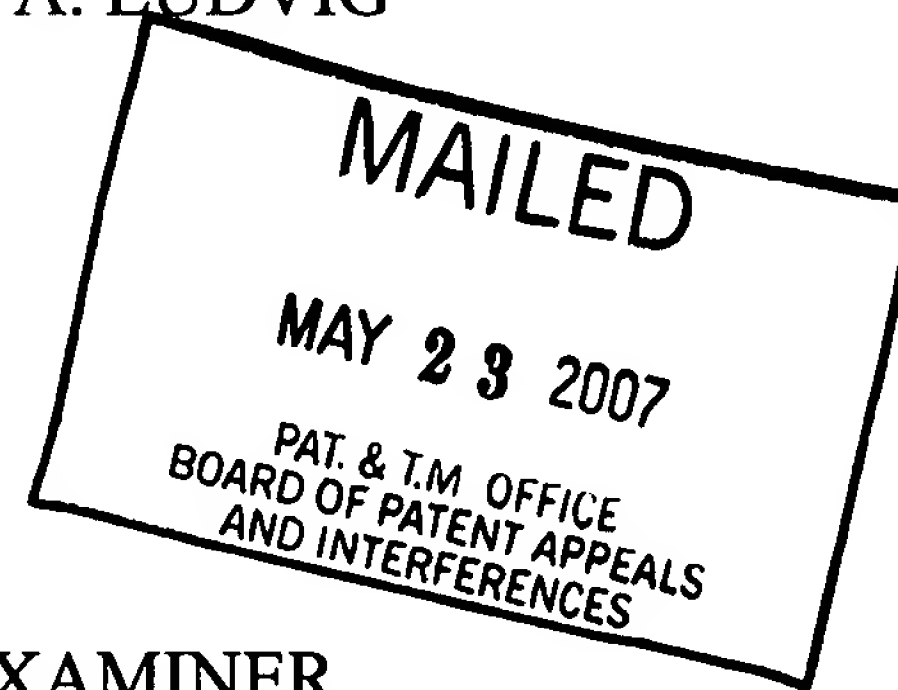
---

Application 09/679,210

---

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

---



This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on February 9, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matter requiring attention prior to docketing is identified below.

On February 9, 2006, an Examiner's Answer was mailed. A review of the Examiner's Answer reveals that it is not in compliance with the headings as required under 37 CFR § 41.37(c).

An in-depth review of the Examiner's Answer mailed on February 9, 2006, reveals that under the heading Evidence Relied Upon, all of the prior arts relied on was not listed. McLaren, U.S. Patent no. 5,867,208 was not listed under the heading Evidence Relied Upon, but was used in rejecting claims 16 and 17 under

Application 09/679,210

35 U.S.C. § 103(a) on page 3, of the Examiner Answer. The MPEP § 1207.02(A) states:

A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

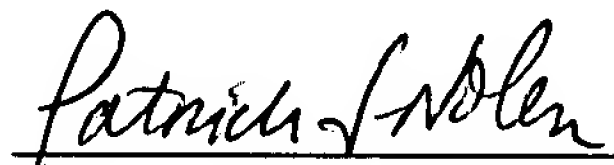
(8) *Evidence Relied Upon*. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

Proper correction of the Examiner's Answer is required.

Accordingly, it is ORDERED that the application is return to the Examiner:

- 1) to issue a revised Examiner's Answer, setting forth all of the prior art the Examiner relied upon in the rejections on appeal; and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES



PATRICK J. NOLAN

Deputy Chief Appeals Administrator  
(571)272-9797

PJN/pgc

Application 09/679,210

cc: Patterson & Sheridan, LLP/  
Sedna patent Services, LLC  
595 Shrewsbury Avenue  
Suite 100  
Shrewsbury, NJ 07702